

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 95 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

POLYFAB MANUFACTURING CO

Versus

SHOBHAGCHANDRA MOHANLAL &CO

Appearance:

MR PC KAVINA for Petitioners

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/11/98

ORAL JUDGEMENT

1. The defendants-petitioners by this civil revision application under section 115 of C.P.C., 1908 challenges the order dated 1-12-1994 passed by the learned Chamber Judge, City Civil Court, Ahmedabad below Ex.25 and 26 in Summary Suit No.1525 of 1993 under which it has been granted leave to defend the suit on the condition of depositing with the Registrar of the said Court a sum of Rs.2,00,000/- on or before 28th January, 1995.

2. One of the contentions raised by the learned counsel for the defendants-petitioners is that the learned trial court has passed a non-speaking order. Carrying this contention further, learned counsel for the petitioners contended that manifold grounds have been given in the application praying for unconditional leave to defend the suit but none of the ground has been referred to, and the trial court by passing a cryptic order has felt contended to grant leave to defend the suit to the defendants-petitioners subject to the condition of depositing Rs.2,00,000/- on or before 28th January, 1995.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the defendants-petitioners.

4. From the application, I find that numerous grounds have been raised by the petitioners in support of their application to grant unconditional leave to defend the suit and the learned trial court deciding the said application has not passed a speaking order.

5. In this revision application, notice has been issued on 27-1-1995 and interim relief in terms of para-10 (B) is granted. Para-10 (B) of the revision application, reads as under:

(B) Your Lordships be pleased to stay the implementation, execution and operation of the judgment and order dated 1-12-1994 passed by the learned Chamber Judge, Court No.20, City Civil Court, Ahmedabad below applications ex.25 & 26 in Summary Suit No.1525/93 pending the admission, hearing and final disposal of the present Civil Revision Application;

This interim relief granted by this Court is continued till this date. So the proceedings of the civil suit remain stayed for all these years to come and this is another ground which pursues this Court to remand the matter for fresh decision on the application filed by the defendants-petitioners for grant of leave to defend. In the matter where in a summary suit, the defendants pray for grant of unconditional leave to defend, I am of the opinion that the Court has to pass a reasoned order. The reasons may not be given in detail but there must be some reasons given in support of the order of the Court not to grant unconditional leave to the defendants in the suit.

6. The impugned order is certainly a cryptic (non-speaking) order and only on this short ground this revision application deserves to be accepted and accordingly it is allowed and the order of the Court below dated 1-12-1994 is quashed and set aside and the learned trial court is directed to decide the application of the defendants-petitioners for grant of unconditional leave to defend the summary suit on merits in accordance with law. Rule is made absolute accordingly.

zgs/-